

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

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<b>Commonwealth Edison Company</b>	:	
	:	
<b>Annual formula rate update and</b>	:	<b>Docket No. 12-0321</b>
<b>revenue requirement reconciliation</b>	:	
<b>authorized by Section 16-108.5 of the</b>	:	
<b>Public Utilities Act.</b>	:	

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**REPLY BRIEF OF THE STAFF**  
**OF THE ILLINOIS COMMERCE COMMISSION**

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**REPLY BRIEF OF THE STAFF  
OF THE ILLINOIS COMMERCE COMMISSION**

Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, pursuant to the direction of the Administrative Law Judges (“ALJs”) and Section 200.800 of the Illinois Administrative Code (83 Ill. Adm. Code 200.800), respectfully submits its Reply Brief in the above-captioned matter.

**I. INTRODUCTION / STATEMENT OF THE CASE**

In addition to Staff and Commonwealth Edison Company (“ComEd” or “Company”), the following parties submitted Initial Briefs (“IBs”) in this matter: the People of the State of Illinois (“AG”) and AARP (collectively “AG/AARP”) and the Citizens Utility Board (“CUB”).

Aside from issues addressed in this Reply Brief, Staff stands by the positions articulated in Staff’s IB. Failure to address a specific issue in this Reply Brief does not constitute a change of position from Staff’s IB.

## **II. OVERALL REVENUE REQUIREMENT**

### **A. 2013 Inception Revenue Requirement (Based on 2011 Costs and 2012 Projected Plant)**

### **B. 2011 Reconciliation and ROE Collar Adjustments**

### **C. Total Revenue Requirement**

The revenue requirements attached to this reply brief (Appendices A & B) reflect the conclusions from the Order on Rehearing entered October 3, 2012 in Docket No. 11-0721. Pursuant to the Order on Rehearing: (1) ComEd is allowed to recover pension funding costs on the amount listed as a pension asset in its FERC Form 1; and (2) the interest on reconciliation adjustments is to be calculated using ComEd's cost of short-term debt. (Order on Rehearing, Docket No. 11-0721, October 3, 2012, pp. 24, 36) As a result, there are two changes to the revenue requirements: (1) an addition of \$71,576,000 to expenses for pension asset funding cost; and (2) a change in the interest rate, from 3.42% to 0.71%. Neither change affected the ROE collar adjustment, but the reconciliation adjustment decreased from a negative \$103,001,000 to a negative \$24,910,000. After accounting for the changes, Staff's proposed total revenue requirement upon which the rates in 2013 will be based is \$2,023,214,000.

## **III. RATE BASE**

### **A. Overview**

**B. Potentially Uncontested Issues**

**1. Plant-in-Service**

**a. Distribution Plant**

**b. General and Intangible Plant**

**c. Plant Additions**

**d. Original Cost Finding**

**2. Materials & Supplies**

**3. Construction Work in Progress**

**4. Regulatory Assets & Liabilities**

**5. Deferred Debits**

**6. Other Deferred Charges**

**7. Accumulated Provisions for Depreciation & Amortization**

**8. Accumulated Miscellaneous Operating Provisions**

**9. Asset Retirement Obligation**

**10. Customer Advances**

**11. Customer Deposits**

**12. Other**

**C. Potentially Contested Issues**

**1. Cash Working Capital**

. ComEd proposes that the Commission approve a cash working capital (“CWC”) requirement of negative \$21,274,000. (ComEd IB, p. 15) However, the final balance of CWC should be calculated using the revenue requirement approved by the Commission in this proceeding. (Staff IB, p. 8) Once that revenue requirement is determined, Staff believes there is no dispute between the Company and Staff as to how CWC is calculated for purposes of this proceeding.

Three components of calculating CWC were addressed during the proceeding by Staff and the Company. The first concerned the timing of payments for certain municipal taxes and fees. ComEd proposed changes in lead times for the Gross



Receipts/Municipal Tax and the Chicago Infrastructure Maintenance Fee to reflect a change in the due dates for those taxes. Staff did not take issue with the changes. (Staff IB, p. 9) Second, ComEd took the position that CWC should be based only on the reconciliation year revenue requirement and a CWC calculation was not necessary for the filing year revenue requirement, and such a calculation would not be in compliance with EIMA. (ComEd Ex. 13.0, p. 34) In rebuttal testimony Staff agreed with the Company and so stated in its initial brief. (Staff IB, p. 9)

Third, while the Company does not agree in principle with the methodology used by Staff in this proceeding with regard to negative current income taxes and the associated deferred income taxes (ComEd IB, pp. 16-17), Staff's methodology is consistent with the Commission's Order in Docket No. 11-0721, and the Company did not propose any adjustment to CWC related to this issue. (Staff IB, pp. 8-9) Accordingly, there is no decision required by the Commission on this issue. (*Id.*)

Finally, ComEd in its initial brief takes issue with the ALJ ruling that struck portions of ComEd's rebuttal testimony (ComEd Ex. 16.0) and did not allow into evidence an attached exhibit 16.5. (ComEd IB, pp. 16-17) Specifically, the ALJ struck lines 67 through 80 from Company witness Hengtgen's rebuttal testimony and did not allow into evidence ComEd Ex. 16.5. ComEd Ex. 16.5 was an excerpt of Staff member Dan Kahle's (who was not a witness in this case) testimony from an Ameren matter. (*Tr.*, September 25, 2012, pp. 86-87) The ALJ did allow the Company to make an offer of proof with regard to the testimony and exhibit. (*Id.*, p. 84)

To the extent that ComEd in its initial brief is simply preserving an issue for appeal, Staff does not take issue with the Company's brief discussing the testimony and

exhibits. However, if ComEd is attempting to discuss the substance of testimony and an exhibit, none of which are in the evidentiary record in this proceeding, that would be inappropriate. While the Company was allowed to make an offer of proof, the purpose of an offer of proof is to disclose the nature of the evidence offered to the trial judge and opposing counsel and to the reviewing court in order that it may determine whether the exclusion was erroneous. *Kankakee County Bd. of Review v. Property Tax Appeal Bd.*, 316 Ill. App. 3d 148 at 155 (1995) ComEd is not permitted to make substantive arguments on evidence not in the evidentiary record. Accordingly, the Commission should not include as part of its order the paragraph which ComEd discusses generally on pages 17 -18 of its initial brief.

**2. Accumulated Deferred Income Taxes**

**3. Accumulated Reserve for Depreciation and Amortization**

**4. Other**

**IV. REVENUES**

**A. Overview**

**B. Potentially Uncontested Issues**

**1. Other Revenues**

## **2. Other**

### **C. Potentially Contested Issues**

#### **1. Billing Determinants**

In its initial brief, ComEd takes issue with Staff's recommendation that the billing determinants used to set rates reflect the customer growth corresponding to the plant additions for New Business. ComEd argues that the adjustment is based on "an assumption that the number of customers will increase by percentages which are based on historical data", that these numbers "may (or may not) be a close approximation of what growth might turn out to be", and that "this data may be "updated" data, but it is certainly not more "accurate" data," therefore, the AG/AARP's and CUB's proposal and Staff endorsement thereof should be rejected. (ComEd IB, pp. 27-28)

ComEd's criticism of Staff's recommendation is not accurate. It is correct that Staff agrees that AG/AARP's and CUB's adjustments are needed "to ensure that the billing determinants are based on accurate information." (Staff IB, p. 14) However, Staff is not explicitly proposing that AG/AARP's and CUB's numeric adjustments be used. Instead, Staff is proposing that, consistent with the Commission's Order in Docket No. 11-0721, which required ComEd to revise the customer count portion of its 2010 billing determinants, AG/AARP's and CUB's *methodology* be used. True, the AG/AARP and CUB proposed a specific adjustment to increase the number of customers corresponding to the Company's inclusion of plant to serve New Business in 2012. However, with respect to the particular numbers on which such an adjustment should be based, Staff is proposing to utilize *ComEd's own numbers*, as presented in ComEd Ex.

13.0, p. 26 Specifically, ComEd indicated that the average number of residential customers in 2011 would be increased by 0.29% over the average number of residential customers in 2010, and the average number of small commercial and industrial customers in 2011 would be increased by 0.39% over the average number of small commercial and industrial customers in 2010. In fact, in its initial brief, the AG/AARP appear to adopt the same position with respect to the actual numbers, in contrast to their original “inaccurate” proposal, that “[t]he average number of residential customers in 2011 increased by 0.40% over the 188 average number of residential customers in 2010 ... [and that] [t]he average number of small 189 commercial and industrial customers in 2011 increased by 0.88% over the average 190 number of small commercial and industrial customers in 2010.” (AG/AARP Exhibit 2.0, p. 9)

Therefore, Staff recommends the Commission apply the same methodology in this proceeding, utilizing ComEd’s numbers, consistent with the Commission’s Order in Docket No. 11-0721, to ensure that the billing determinants are based on accurate information.

## **2. Other**

# **V. OPERATING EXPENSES**

## **A. Overview**

## **B. Potentially Uncontested Issues**

### **1. Distribution O&M Expenses**

- 2. Customer-Related O&M Expenses**
- 3. Uncollectibles Expenses**
- 4. Incentive Compensation Expense**
- 5. Sales and Marketing Expense**
- 6. Depreciation and Amortization Expense**
- 7. Taxes Other than Income**
- 8. Income Taxes**
- 9. Regulatory Asset Amortization**
- 10. Operating Cost Management Efforts**
- 11. Storm Damage Repair Expense**
- 12. Interest Expense**

**13. Lobbying Expense**

**14. Gross Revenue Conversion Factor**

**C. Potentially Contested Issues**

**1. Administrative and General Expenses**

**a. Charitable Contributions**

ComEd makes a number of incorrect assertions in its initial brief on this topic. First, ComEd states that Staff witness Tolsdorf “proposes a rule disallowing all donations made to organizations that are not tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Code, and also recommends disallowing donations to organizations outside of ComEd’s service territory and organizations that he characterizes as political.” (ComEd IB, p. 37) Staff does not propose such a *rule*. As stated in its IB, Staff used 501(c)(3) status as only one of many considerations in assessing the reasonableness of a donation. The 501(c)(3) tax status simply indicates whether an organization is deemed “charitable” by the federal government and therefore, restricted from participating in political activities of lobbying. (Staff IB, pp. 19-20) Staff certainly has not and does not propose any kind of a rule in contravention of the requirements set forth in Section 9-227 of the PUA. Staff also considered the purpose of the donation to determine whether the donation served the public welfare. This does not contradict the Commission’s recent Order in Docket No. 12-0001, because Mr. Tolsdorf does not use 501(c)(3) status as a “bright line test” to determine

whether donations should be allowable under the statute, he does not categorically deny any donations, nor does he impose any kind of a rule, as ComEd incorrectly implies.

Next, ComEd incorrectly states that Mr. Tolsdorf recommends the Commission bar, as a rule, recovery of out of state donations. (ComEd IB, p. 39) Mr. Tolsdorf has proposed no such rule. Mr. Tolsdorf has recommended an adjustment to remove recovery for out of state donations consistent with the Commission's Order in Docket No. 11-0721 that out of service territory donations are "not reasonable." (See, Final Order, Docket No. 10-0467, May 24, 2011, pp. 98-99) ("Logically, the term "public" includes only the rate-paying public, which is ComEd's service territory.") The Commission's order in Docket No. 11-0721 is consistent with the language in Section 9-227 that:

It shall be proper for the Commission to consider as an operating expense, for the purpose of determining whether a rate or other charge or classification is sufficient, donations made by a public utility for the public welfare or for charitable scientific, religious or educational purposes, provided that such donations are reasonable in amount. In determining the reasonableness of such donations, the Commission may not establish, by rule, a presumption that any particular portion of an otherwise reasonable amount may not be considered as an operating expense. The Commission shall be prohibited from disallowing by rule, as an operating expense, any portion of a reasonable donation for public welfare or charitable purposes.

(220 ILCS 6/9-227)(emphasis added)

The statute allows the Commission to consider the "reasonableness" of the donations made, and the Commission has determined that the amounts to these out of service territory entities were unreasonable. Therefore over \$300,000 in donations to certain residents of Baltimore and Philadelphia do not benefit ComEd's ratepayers and are not consistent with the requirements of Section 9-227.

**b. Rate Case Expense - - Instant Docket**

The Commission should accept Staff's proposed adjustment to remove from the Company's revenue requirement the costs associated with the preparation of an Article IX traditional rate case which the Company never filed. (Staff Ex. 8.0, p. 10) It is simply unreasonable for customers to pay for the preparation of a rate case which the Company never filed and when the Company has failed to show benefit to ratepayers for the Company preparing an anticipatory rate case. (Staff IB, p. 26) The Company stated in its Initial Brief:

When EIMA became law, ComEd elected to become a "participating utility" under that statute and discontinued its Article IX case preparation. Up to that time, however, ComEd had incurred about \$244,000 in costs in the preparation of that filing, the amount it has included in its formula rate update. (ComEd IB, pp. 40-41)

The cost of *electing* to become a "participating utility" is for the Company to forego the costs associated with an abandoned Article IX traditional rate case. The Company argues incorrectly that these abandoned costs should be treated similarly to that of abandoned utility plant:

A close parallel to the issue presented by these costs is the issue of the treatment of the costs invested in utility plant that was never completed and thus never provided service to the public. Despite arguments that recovery of those costs should be disallowed, this Commission – like others – allowed a full *recovery* of the costs prudently incurred in connection with the construction of the Duck Creek generating plant, even though that plant was not completed because of changed circumstances. (ComEd IB, p. 41)

The changed circumstances in the case of the abandoned traditional Article IX rate case costs is that the Company elected to file for rate relief under a recovery mechanism more beneficial to it; i.e., EIMA. The Duck Creek analogy is erroneous because the generating plant was not abandoned so that the utility could build a bigger



and better generating plant, but rather it was determined that the plant was not necessary because of changing load demands. The change in circumstances in the case of the Duck Creek generating plant was beyond the control of the utility's management, and thus recovery of those abandoned costs was warranted. (See, Order, Docket No. 83-0177, October 4, 1985, p. 12) The abandonment of the traditional Article IX rate case was well within control of ComEd's management and recovery of those costs should be disallowed.

**c. Rate Case Expenses - - Docket 11-0721**

**d. Merger Expense**

**VI. RATE OF RETURN**

**A. Overview**

Staff stands by the positions taken in its IB.

**B. Capital Structure**

**C. Cost of Capital Components**

**1. Rate of Return on Common Equity**

**2. Cost of Long - Term Debt**

**3. Cost of Short - Term Debt**

**4. Overall Weighted Cost of Capital**

**VII. COST OF SERVICE AND RATE DESIGN**

**A. Overview**

**B. Potentially Uncontested Issues – Embedded Cost of Service Study**

**VIII. OTHER**

**A. Overview**

**B. Potentially Uncontested Issues**

**1. Distribution System Loss Factor Study**

Staff's position on this issue was set forth in its initial brief. There is no dispute between the Company and Staff on this issue.

**2. Computation of ROE Collar Adjustment for 2011**

**C. Potentially Contested Issues**

**1. Presentation of ROE Collar Adjustment on Schedule FR A-3 and WP 22**

There is no disagreement between Staff and ComEd regarding: (1) Staff's proposed modifications to formula rate Sch. FR A-3 and related workpaper WP 22; and (2) the need to include the ROE collar amount in the interest calculation on Sch. FR A-4. (Staff IB, pp. 13, 15) ComEd indicated it will effectuate these changes by filing a

motion to revise its August 23, 2012 compliance filing in Docket No. 11-0721. (ComEd IB, p. 58) Providing the motion is granted and approved by the Commission, only the change affecting the interest calculation would result in a change to the revenue requirement in the instant proceeding.

**2. Preservation of Docket No. 11-0721 Rehearing Issues**

**a. Pension Asset Funding Costs**

**b. Average or End of Year Rate Base in Reconciliations**

**c. Interest Rate for Reconciliation Adjustments**

**3. Section 16-108.5 of the PUA**

**a. Identification of costs incurred in compliance with Section 16-108.5.**

Staff affirms its recommendation that the Commission require the Company to identify in each future formula rate filing the costs that were incurred in compliance with or in meeting the infrastructure investment requirements of Section 16-108.5(b). (Staff IB, pp. 35-41) The People of the State of Illinois and AARP support Staff's recommendation. (AG/AARP IB, pp. 23-26)

The Company argues that the information at issue "is not called for by EIMA and is simply impractical to provide." (ComEd IB, p. 62) Further, the Company opines that there is no reason for the Commission to know what incremental investments the Company made in compliance with or in meeting the infrastructure investment requirements under Section 16-108.5(b) of the Act. (*Id.*, p. 63) The Commission should

reject these arguments. It is critical for the Commission to know how much of the costs requested for recovery in a formula rate proceeding are due to the Company's compliance with or in meeting the infrastructure investment requirements under Section 16-108.5(b) of the Act, as this would affect the determination of the reasonableness of the requested costs and whether or not these costs should be reflected in the formula rates.

As Staff has pointed out, although Section 16-108.5(b) of the Act requires a participating utility to submit by April 1 of each year an infrastructure investment program report, this report would not necessarily indicate which costs were included in the subsequent May 1 formula rate update filing. (Staff IB, p. 36) The annual report would only indicate actual costs incurred through a certain date, not the actual and projected costs included in the formula rate update. (*Id.*) Section 16-108.6(c) clearly provides that investments made pursuant to a Commission approved AMI Plan are subject to reasonableness reviews, and in any such review, it is crucial that the different costs reflected in the formula rate update and the annual report be open, transparent, and easily reconciled. (220 ILCS 5/16-108.6(c); Staff IB, pp. 36-37) Therefore, it is important that the Company provide and the Commission identify in its Order in each formula rate filing the costs that were incurred in compliance with or in meeting the requirements of Section 16-108.5(b) of the Act. (Staff IB, pp. 36-37)

The Company's assertions that Staff's recommendation is impracticable and that the Company is incapable of tracking or does not track its investments under Section 16-108.5(b) of the Act is contradicted by the evidence in this proceeding. (ComEd IB, p. 62) As explained by AG/AARP, the record is clear that not only has the Company

demonstrated it is capable of identifying in detail the investments and budgeted costs for investments made in compliance with or in meeting the infrastructure investment requirements under Section 16-108.5(b) of the Act, it in fact already does so. (AG/AARP IB, pp. 24-26) In addition, as established in ComEd's response to Staff DR RWB 9.08, ComEd has the capability of tracking the actual costs for the required categories of investment. (Staff IB, p. 39) Considering the requirements of the Act and the obvious capabilities of the Company, Staff's recommendation is practicable.

Further, the Company's argument that Staff's recommendation "is not consistent with the EIMA structure in how the investment target is determined[,]" is without merit (ComEd IB, p. 62) Section 16-108.5(b)(1) of the Act requires a participating utility to invest \$1.3 billion over a five-year period on certain electric system upgrade, modernization and training facility projects and another \$1.3 billion over ten years on transmission and distribution infrastructure and Smart Grid electric system upgrades. (220 ILCS 5/16-108.5(b)(1)) In describing the required investments, Section 16-108.5(b) of the Act states:

The investments in the infrastructure investment program described in this subsection (b) shall be incremental to the participating utility's annual capital investment program, as defined by, for purposes of this subsection (b), the participating utility's average capital spend for calendar years 2008, 2009, and 2010 as reported in the applicable Federal Energy Regulatory Commission (FERC) Form 1..." (220 ILCS 5/16-108.5(b))

The Act requires the additional \$2.6 billion investment to be incremental to what the Company invested historically via its capital investment program. The Act defines the investment required of the utility. Staff's recommendation merely requires the Company to annually report, as part of its formula rate filings, those defined investments the

Company incurred or is projected to incur in complying with or in meeting the infrastructure investment requirements of Subsection 16-108.5(b). Therefore, Staff's recommendation is clearly consistent with the EIMA structure and how the investment target is determined.

Likewise, the Company's argument that the data Staff recommends the Commission order the Company to provide "is not required to assess prudence" is in error. (ComEd IB, p. 63) Section 16-108.6(c) provides in pertinent part:

A participating utility's decision to invest pursuant to an AMI Plan approved by the Commission shall not be subject to prudence reviews in subsequent Commission proceedings. Nothing in this subsection (c) is intended to limit the Commission's ability to review the reasonableness of the costs incurred under the AMI Plan.  
(220 ILCS 5/16-108.6(c))

The Company is correct that those investments described in an AMI Plan that the Company seeks for the Commission to approve in Docket No. 12-0298 are not subject to further prudence reviews. In Docket No. 12-0298, the Company is seeking Commission approval to invest approximately \$1 billion dollars in the deployment of AMI technology across its entire service territory.<sup>1</sup> While this amount constitutes a major portion of the \$1.3 billion in required incremental investments to upgrade and modernize ComEd's transmission and distribution infrastructure and in Smart Grid electric system upgrades under Section 16-108.5(b)(1)(B) of the Act, there remains approximately \$300 million of investments under Section 16-108.5(b)(1)(B) that are subject to prudence determinations. In addition, the Commission must still make prudence determinations on the other approximately \$1.3 billion in required infrastructure investments in electric

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<sup>1</sup> ComEd Verified Application for Rehearing, Docket No. 12-0298, July 6, 2012, p. 2.

system upgrade, modernization and training facility projects under Section 16-108.5(b)(1)(A) of the Act. In order to know which of the approximately \$1.6 billion in investments are subject to subsequent prudence determinations, the Commission must first know the entire population of investments, and then know the sub-population of investments on which the prudence decision was already established in the AMI Plan that is before the Commission for approval in Docket No. 12-0298. Without the information Staff recommends the Commission require from the Company, the Commission will not be able to determine which incremental investments are subject to prudence decisions.

Finally, the Company submits that while it will continue to provide the detailed information specific to many of its projects as it has previously, “it could also provide with its filing, the incremental investment calculated as specified in EIMA, i.e., as a difference between actual or forecast investment and the statutory average investment baseline, however, that data will already appear in ComEd’s annual EIMA reports.” (ComEd IB, pp. 63-64) While the type of reporting volunteered by the Company may encompass the historical investment, it is unclear how the Company’s new reporting offer would clarify which costs had been approved for prudence by the Commission in Docket No. 12-0298 and the costs which had not been approved for prudence. As such, Staff rejects the reporting offer, and affirms its original reporting recommendations.

ComEd’s reporting compromise only offers to provide information that would be available in ComEd’s annual EIMA reports. Staff, however, proposes that the Commission be able to reconcile the IEMA plant investment included in the revenue

requirement with ComEd's investment amount commitments as set forth in the annual EIMA reports. The only way that this can be accomplished is for ComEd to identify within its formula rate filing the actual plant additions that have been classified as IEMA plant investment reduced by the statutory average investment baseline and the projected plant additions included in the formula rate filing reduced by the statutory average investment baseline. Staff cannot understand how the Commission will be able to ensure that ComEd is in compliance with its infrastructure investment program commitments pursuant to Section 16-108.5(b) if the Commission cannot determine the extent of the infrastructure investment program commitments that have been included for recovery in ComEd's formula rates.

Staff does suggest some minor changes from the recommended language in its IB for the Commission to include in its order to clarify that the amount of actual plant additions and the amount of projected plant additions should be separately identified.

Accordingly, Staff continues to recommend the following:

1. The Commission should require that in each future formula rate proceeding, ComEd is to identify in its direct testimony the costs included in the rate year revenue requirement that ~~are~~have been incurred ~~or~~and are projected to be incurred in compliance with or in meeting the infrastructure investment requirements of Subsection 16-108.5(b) of the Act;
2. In each Order establishing the rates resulting from a formula rate proceeding, the Commission should clearly identify in its Order the costs included in the rate year revenue requirement that ComEd has incurred ~~or~~and isare projected



to incur in complying with or in meeting the infrastructure investment requirements of Subsection 16-108.5(b) and of the Act;

3. The Commission should include the following language in the Findings and Orderings paragraphs of its Order in this proceeding:

(#) The Commission, based on the record in this proceeding, finds that the approved revenue requirement includes no 2011 plant additions and \$269,474 million of projected 2012 plant additions to be incurred by the utility in compliance with or in meeting the infrastructure investment requirements of Subsection 16-108.5(b) of the Act. These are projected costs and will be reconciled to actual costs in the Company's next formula rate filing. The detail of these projected plant additions in the categories as required by Section 16-108.5(b)(1) are as follows (in Millions):

Distribution infrastructure improvements	\$ 128,888
Training facility construction or upgrade projects	2,551
Wood pole inspection, treatment, and replacement	11,110
Reducing the susceptibility of storm-related damage	<u>23,447</u>

**Total electric system upgrades, modernization projects, and training facilities** **\$ 165,996**

Additional smart meters	\$ 52,246
Distribution automation and associated cyber secure data communication network	50,957
Substation micro-processor relay upgrades	<u>275</u>

**Total upgrade and modernization of transmission and distribution infrastructure and Smart Grid electric system upgrades** **\$ 103,478**

**Total projected incremental 2012 plant additions In compliance with Section 16-108.5(b)(1) of the Act (Staff Ex. 7.0, Attachment B)** **\$269,474**

**b. Contributions to energy low-income and support programs.**

Staff affirms its recommendation that the Commission require the Company to identify in each formula rate filing the costs that were: (1) incurred in the applicable year

in compliance with or in meeting the requirements for contributions to energy low-income and support programs of Section 16-108.5(b-10) of the Act; (2) excluded from the requested revenue requirement, and; (3) provide evidence that the costs were excluded. This information provided with the Company's filing would provide for a more timely and in-depth review of the data, as well as provide greater transparency on the part of the Company. (Staff IB, p. 41-42)

The Company argues that there is no reason why the costs incurred in compliance with or in meeting the requirement of Section 16-108.5(b-10) of the Act should have a "pre-filing requirement imposed on them above and beyond the provision of EIMA." (ComEd IB, p. 64) Apparently the Company is also of the mind that because it excludes other non-recoverable costs from its formula rate input data without providing any documentation of those costs, it should not be required to provide documentation of the exclusion from the formula rate input data of non-recoverable costs incurred in compliance with or in meeting the requirements for contributions to low-income and support programs. (*Id.*) The Commission should reject these arguments.

Under Section 16-108.5(b-10) of the Act, the Company is required to file with the Commission annual reports documenting the disbursement of funds to energy low-income and support programs. (220 ILCS 5/16-108.5(b-10)) Any such payments are not recoverable expenses. (*Id.*) In addition, the Commission is authorized to audit disbursement of the funds to ensure they were disbursed consistent with Section 16-108.5(b-10). (*Id.*) Staff's recommendation requires the Company to provide the same information in its formula rate filings, where it is highly visible and easily located. This

recommendation also allows for the Commission to have information on the disbursements of funds available for audit in the formula rate proceedings when other EIMA-related financial analyses and reviews are performed.

The Company states, in regards to the annual report required under Section 16-108.5(b-10), that it “is prepared to work promptly with Staff toward a mutual recommendation for submitting this report prior to the annual formula rate update and reconciliation filing...” (ComEd IB, p. 64) Further, “ComEd proposes to work with Staff on developing a report format that includes transparent information to identify where non-recoverable costs are recorded in order to demonstrate that these costs are excluded from the revenue requirement update and reconciliation filing.” (*Id.*, pp. 64-65) Staff agrees that the Company should submit the required report prior to the annual formula rate update. Further, Staff agrees that the Company should provide transparent information to identify where non-recoverable costs are recorded in order to demonstrate that these costs are excluded from the revenue requirement update and reconciliation filing. However, Staff affirms its recommendation that this information also be provided within the context of the formula rate proceedings.

Accordingly, Staff continues to recommend the following:

1. The Commission should require that ComEd, in each formula rate proceeding, identify in direct testimony the costs included in the rate year revenue requirement that are incurred in the applicable year in compliance with or in meeting the requirements for contributions to energy low-income and support programs in Subsection 16-108.5(b-10) of the Act and that were excluded from

the requested revenue requirement, and to provide evidence that the costs were excluded;

2. In each Order establishing the rates resulting from a formula rate proceeding, the Commission should clearly identify in its Order the costs which ComEd incurred in the applicable year in complying with or in meeting the requirements for contributions to energy low-income and support programs of Subsection 16-108.5(b-10) of the Act and to indicate that those specific costs were properly excluded from the approved revenue requirement;

3. The Commission should include the following language in the Findings and Orderings paragraphs of its Order in this proceeding:

(#) The Commission, based on the record in this proceeding, finds that the utility incurred in 2011 \$0 in compliance with or in meeting the requirements for contributions to energy low-income and support programs of Subsection 16-108.5(b-10) of the Act, and that said costs have been properly excluded from the approved revenue requirement. (Staff Ex. 7.0, Attachment C)

**4. Format of Revenue Requirement Schedules and Related Documents.**

**a. Changes to Formula Rate Template**

**b. Use of traditional schedules as an attachment to the Commission's final orders in the formula rate proceedings.**

Staff's recommendation to use the traditional schedules as an attachment to the Commission's final Order in the instant proceeding is supported by the AG and AARP, who echo Staff's concerns regarding transparency in the formula rate model. (AG/AARP IB, pp. 27-29) While it does not oppose the use of traditional revenue

requirement schedules, ComEd states that the formula rate template should also be used in the Commission's final Order to ensure that the calculations are aligned. (ComEd IB, p. 65) Although it is not clear to Staff to which parts of the formula rate template ComEd is referring, Staff does not oppose ComEd's position. The more important consideration is the attachment of the traditional schedules to the Commission's final Order in this proceeding. Use of the traditional schedules provides transparency to the formula rate proceeding in that the traditional schedules show all the adjustments made by the parties, the ALJs and the Commission to the formula rate inputs proposed by the Company. (Staff IB, p. 45)

## **IX. CONCLUSION**

WHEREFORE, for all of the following reasons, Staff respectfully requests that the Commission's order in this proceeding reflect all of Staff's recommendations regarding the Company's tariffs and charges submitted pursuant to Section 16-108.5 of the Public Utilities Act.

Respectfully submitted,

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